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ALEXANDRIA VA 22314

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MAY 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Charles E. Sigler, Jr. et al.	:	
Application No. 09/715,176	:	DECISION ON PETITION UNDER
Filed: November 20, 2000	:	37 C.F.R. §1.181(A)
Attorney Docket Number:	:	
198966US8	:	
Title: SYSTEM, METHOD, AND	:	
COMPUTER PROGRAM PRODUCT FOR	:	
MAINTAINING CONSUMER PRIVACY	:	
AND SECURITY IN ELECTRONIC	:	
COMMERCE TRANSACTIONS	:	

This is a decision on the petition under 37 CFR §1.181(a), filed March 14, 2007, to withdraw the holding of abandonment.

Background

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed June 27, 2005, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on September 28, 2005. A notice of abandonment was mailed on January 23, 2006.

On March 14, 2007, the present petition was filed, along with an amendment and a Power of Attorney.

The Power of Attorney has been entered and made of record.

Petitioner seeks the withdrawal of this notice of abandonment, and has asserted that neither the non-final Office action nor the notice of abandonment was received. He has asserted that both mailings were returned to the Office as undeliverable - the electronic record has been reviewed, and it is clear that both mailings were indeed returned to the Office as undeliverable.

Petitioner's submission has been considered, and it has been deemed to be unpersuasive. Consequently, it has not been established that the notice was improper and should be withdrawn. A discussion follows.

Analysis

Petitioner has further explained that on September 8, 2003, the Office approved the withdrawal of Oblon, Spivak, McClelland, Maier & Neustadt, P.C. (Oblon) as attorneys of record for the present application, and the new mailing address became "eCognito, Inc., 515 King Street, Suite 330¹, Alexandria, VA, 22314." On January 24, 2007, the present assignee (an entity by the name of Megasoft Consultants, Inc.) requested Petitioner to ascertain the status of the present application.

This is only part of the story. The electronic record confirms that between the approval of the withdrawal of attorney of record and January 24, 2007, there have been a plurality of changes of address in conjunction with the present application. Furthermore, this is not the first time this application has gone abandoned for failure to reply to an Office communication.

- On August 1, 2003, the Office mailed a restriction requirement to the law firm of Oblon, at the present address of record. The restriction requirement set a shortened statutory period to reply for one month. No reply was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested.
- On August 18, 2003, Oblon filed a Petition to withdraw as attorney of record. Oblon requested that all further communications be forwarded to the Assignee at "eCognito, Inc., 515 King Street, Alexandria, VA, 22314."
- The present application became abandoned on September 2, 2003, for failure to respond to the restriction requirement.
- Oblon's request to withdraw as attorney of record was granted via the mailing of a Notice regarding Change of Power of Attorney on September 8, 2003. The notice was mailed to both Oblon and the assignee at the 515 King Street address.

¹ The Office will presume that this is a typographical error, as this does not appear to be the correct street address. If this is not a typographical error, Petitioner must notify the Office.

- A Notice of abandonment was mailed on February 24, 2004 to the assignee. The notice was addressed to eCognito at the 515 King Street address.
- On May 13, 2004, a facsimile transmission was received from Sunny Dewakar, the CEO and President of eCognito, requesting that the address be changed to "eCognito, Inc., 4815-B Eisenhower Avenue, Alexandria, VA, 22304."
- On July 2, 2004, the notice of abandonment was re-mailed to the address on Eisenhower Avenue.
- On July 27, 2004, despite the fact that Oblon's request to withdraw as attorney of record had been granted by the Office, Oblon submitted a response to the restriction requirement, along with a petition to revive pursuant to Rule \$1.137(b). Both filings indicated that the correspondence address should be e-Cognito, at the Eisenhower Avenue address.
- On August 30, 2004, Ms. Dewakar informed the Office that eCognito had moved again, to the address of "8619, Westwood Center Drive, Suite #420, Vienna, VA, 22182."
- A decision on the petition to revive was mailed on November 26, 2004, to the address on Eisenhower Avenue.
- On December 2, 2004, the copy of the mailing of September 8, 2003 that was sent to eCognito at the 515 King Street address was returned to the Office. This strongly suggests that around the time of September 8, 2003, eCognito was no longer located at the King Street address. Since eCognito did not inform the Office that it had moved from the King Street address until May 13, 2004, this strongly suggests that eCognito did not inform the Office of the change of address in a timely manner.
- It appears that although the decision on the petition to revive was not mailed to the address in Vienna, it was received: on December 8, 2004, Oblon filed a renewed petition.
- The petition to revive was granted via the mailing of a decision on February 4, 2005 to the address in Vienna.
- On June 27, 2005, a non-final Office action was mailed the address in Vienna.
- This mailing was returned to the Office on August 4, 2005.
- A notice of abandonment was mailed on January 23, 2006 to the address in Vienna.
- This mailing was returned to the Office on January 26, 2006.

It is clear that the physical address of eCognito changed on numerous occasions during the relevant timeframe. It is equally clear that Oblon was no longer the attorney of record at the time that the non-final Office action was mailed. Furthermore, the record strongly suggests that eCognito did not always apprise the Office of its movements in a timely manner.

What is not clear is whether eCognito was located at the address in Vienna at the time when both the non-final Office action and the subsequent notice of abandonment were mailed.

Due to eCognito's frequent migrations, it seems highly likely that these mailings were returned to the Office because eCognito was no longer located at the Vienna address, and eCognito had failed to apprise the Office that it had moved.

Petitioner has not provided any indication as to whether the Vienna address was the correct address at the time of these two mailings.

On renewed petition, Petitioner will need to provide a statement from either an officer or an employee of eCognito, having firsthand knowledge of whether or not eCognito was located at 8619 Westwood Center Drive, Suite #420, Vienna, VA, 22182 on June 27, 2005 and January 23, 2006.

Conclusion

This petition must be **DISMISSED**.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.181(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanowski, and may be submitted by mail², hand-delivery³, or facsimile⁴.

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225⁵. All other inquiries

² Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

³ Customer Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

⁴ (571) 273-8300- please note this is a central facsimile number.

⁵ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is

concerning examination procedures or status of the application should be directed to the Technology Center.



Paul Shanowski
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reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.